

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Annual Certifications Related  
to Eligible Telecommunications Carriers'  
(ETCs) Use of the Federal Universal Service  
Support

ISSUE DATE: September 30, 2004

DOCKET NO. P-999/M-04-1092

ORDER CERTIFYING ETCs' USE OF  
FEDERAL HIGH-COST SUBSIDY

**PROCEDURAL HISTORY**

On May 23, 2001, the Federal Communications Commission (FCC) issued new rules governing the distribution of federal funds to subsidize local telephone service in high-cost areas.<sup>1</sup> Though subsequently amended, these rules continue to set forth the uses for these funds and require states to certify annually that eligible telecommunications carriers (ETCs)<sup>2</sup> would use the funds only for the provision, maintenance and upgrading of facilities and services for which the subsidies are intended.

On December 23, 2002, the Commission issued its ORDER CERTIFYING ETCs' USE OF FEDERAL HIGH-COST SUBSIDY.<sup>3</sup> As part of that order, the Commission established a procedural schedule for future certifications as follows:

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<sup>1</sup> *Federal-State Joint Board on Universal Service and Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 96-45, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice to Rulemaking, CC Docket No. 00-256, Report and Order (FCC 01-157, released May 23, 2001).

<sup>2</sup> An ETC must offer certain minimal telecommunications services within its designated area, advertise that it does so, and continue to offer and advertise these services until the Commission relieves it of its ETC duties. 47 U.S.C. § 214.

<sup>3</sup> *In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' (ETCs) Use of Federal Universal Service Support*, Docket No. P-999/M-02-1403.

August 1 - ETCs seeking certification file petitions including 1) an affidavit from a corporate officer of the ETC stating that any support received will be used only for its intended purpose, and 2) additional documentation pertaining to the previous year's federal high-cost support received and the ETC's operating and capital expenditures.

August 20 - Interested parties file comments.

August 30 - Interested parties file reply comments.

By August 2, 2004, petitions were filed by Citizens Telecommunications Company of Minnesota, Inc., Frontier Communications of Minnesota, Inc., Sprint Minnesota, Inc., WWC Holding Company, Heartland Telecommunications Company of Iowa, Mankato Citizens Telephone Company, Mid-Communications, Inc., CenturyTel of Chester, Inc., CenturyTel of Northwest Wisconsin, LLC, and CenturyTel of Minnesota, Inc., Midwest Wireless Communications and the 86 Minnesota Independent Coalition (MIC) companies listed in the MIC filing.

On August 20, 2004, the Department of Commerce (DOC) filed comments. The DOC filed corrections on August 24 and August 30, 2004.

On September 2, 2004, RCC Minnesota, Inc. and Wireless Alliance, LLC (collectively RCC) filed a joint petition, and on September 7, 2004, Cellular Mobile Systems of St. Cloud, LLC d/b/a Cellular 2000 of St. Cloud (CMS) submitted its petition.

On September 23, 2004, this matter came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

The federal Telecommunications Act of 1996<sup>4</sup> (the Act) triggered a revision of the federal subsidies for telecommunications service in high-cost areas.<sup>5</sup> It articulated a goal that all Americans, including Americans in rural, insular and high cost areas, should have access to telecommunications services at rates that are reasonably comparable to rates charged for similar services in urban areas. 47 U.S.C. § 254(b)(3).

According to the rules implementing this part of the Act, no eligible telecommunications carrier in Minnesota may receive the federal high-cost support unless this Commission files –

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<sup>4</sup> Pub. L. No. 104-104, 110 Stat. 56 (codified throughout title 47, United States Code).

<sup>5</sup> Federal subsidy programs for high-cost areas are codified at 47 C.F.R. §§ 54.301, 54.305, 54.307, 54.309, 54.311 and part 36, subpart F.

an annual certification with the [Universal Service Administrative Company]<sup>6</sup> and the [FCC] stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>7</sup>

The Minnesota Legislature addressed this issue in 2004 and provided that:

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers. Minnesota Session Laws 2004, Chapter 261, Article 4, Section 2.

On February 27, 2004, the Joint Board on Universal Service recommended that states use the annual certification process for all ETCs to ensure that universal service funding support is used to provide the supported services and for associated infrastructure costs. Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45 (February 27, 2004).

## **II. Party Positions**

Each petitioner filed an affidavit from a company official stating that the company would use the federal high-cost subsidies received in 2005 only for their intended purposes. The petitioners also filed data pertaining to 2003 federal high-cost support received and the operational and capital expenditures incurred in 2003.

The DOC, based upon the affidavits and sworn statements provided by the petitioning ETCs, recommended approval of the carriers' petitions.

RCC Minnesota, Inc. and Wireless Alliance, LLC (collectively RCC) and Cellular Mobile Systems of St. Cloud, LLC (CMS) each requested that its late filing be accepted. They indicated that, as new ETCs, they were unaware of the procedural schedule adopted by the Commission. As soon as they became aware of the deadlines, they filed their respective petitions. At hearing, there were no objections to the late filings of RCC and CMS.

## **III. Commission Action**

The Commission has reviewed the affidavits, the supporting documents, and the DOC's recommendations. On this basis, the Commission will grant all of the petitions, including those filed late, and certify to the federal agencies that the attached list of ETCs will use the federal high-cost subsidies received in 2005 only for the provision, maintenance and upgrading of facilities and

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<sup>6</sup> The Universal Service Administrative Company is a private, not-for-profit organization responsible for administering the federal Universal Service Fund to promote access to affordable telecommunications services throughout the United States and its territories. 47 C.F.R. § 54.5.

<sup>7</sup> 47 C.F.R. § 54.313(a) (pertaining to non-rural carriers); 47 C.F.R. § 54.314(a) (pertaining to rural carriers).

services for which the subsidies are intended. This is consistent with the Commission's rulings on past certification requests.<sup>8</sup>

The Commission will so order.

### **ORDER**

1. The petitions for certification are granted.
2. The Commission certifies to the FCC and the Universal Service Administrative Company, based on the affidavits from the ETCs and on additional materials, that the petitioning ETCs will use the federal high-cost subsidies received in 2005 only for the provision, maintenance and upgrading of facilities and services for which the subsidies are intended. The certification letter, including the list of petitioning ETCs, is attached.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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<sup>8</sup> *In the Matter of Annual Certifications related to Eligible Telecommunications Carriers' (ETCs) Use of the Federal Universal Service Support*, Docket No. P-999/M-01-1219 ORDER CERTIFYING ETC's USE OF FEDERAL HIGH-COST SUBSIDY (October 9, 2001); *In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' (ETCs) Use of Federal Universal Service Support*, Docket No. P-999/M-02-1403 ORDER CERTIFYING ETC's USE OF FEDERAL HIGH-COST SUBSIDY (December 23, 2002).